

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, April 11, 2007
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: March 30, 2007

RE: Closed Session of the Board on April 11, 2007

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. BLF, INC., dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
2. C & T METAL SUPPLY CO., 04-R4D2-642 AND 643
3. CAPCO/JOVIAN ENERGY, 03-R2D5-5039 THROUGH 5042
4. DADE BEHRING, 05-R2D1-2203
5. LAKESIDE FARMS SCHOOL, 04-R3D2-3944 AND 3945
6. LARSSON CONSTRUCTION, 05-R2D3-880
7. McGUIRE AND HESTER, 06-R1D4-384 AND 385
8. MONTENAY PACIFIC POWER CORPORATION, 04-R3D5-744 THROUGH 746

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9. NORTHWEST GENERAL ENGINEERING, 05-R1D5-431

10. PLANT SCIENCES, INC., 04-R2D4-3734 THROUGH 3736

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. A-1 QUALITY CONSTRUCTION, 06-R1D2-2106 THROUGH 2109

2. ALDER CREEK MILLWORK, 04-R2D1-3724 AND 3725

3. AMERICAN WORK FORCE, 05-R4D2-733

4. AMI METALS, INC., 06-R3D3-2788 THROUGH 2790

5. ANTON CARRINGTON & SONS COLD STORAGE, 04-R2D7-4530 THROUGH 4534

6. ARCHITECTURAL GLASS & ALUMINUM CO., 05-R1D4-1064

7. ARMOUR STEEL COMPANY, INC., 05-R2D1-2489 THROUGH 2492

8. A TO ROH CONSTRUCTION dba IN & OUT PLASTERING, 06-R3D3-1289 AND 1290

9. B.D. COMPTON CONSTRUCTION, INC., 05-R1D5-1151 AND 1152

10. BARRETT BUSINESS SERVICES, 05-R3D3-3973 THROUGH 3976

11. BELL BROTHERS STEEL, 06-R4D2-4478 AND 4479

12. BOSTIK CORPORATION, 05-R3D3-2679 AND 2680

13. BRENNTAG PACIFIC INC., 06-R3D7-5300 AND 5301

14. BUTTON TRANSPORTATION, INC., 05-R2D3-4079

15. CRM, 06-R4D2-3935 THROUGH 3937

16. CW CONSTRUCTION, 06-R3D1-2748

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17. CABINETS 2000, INC., 06-R4D4-2889
18. CAL COAST CONSTRUCTION, 04-R3D2-3632 AND 3633
19. CALIFORNIA MARQUEE, 04-R6D2-3607 AND 3608
20. CAMINO REAL FOODS, INC., 06-R4D2-3931
21. CAPPER CONSTRUCTION, 05-R4D1-3337 AND 3338
22. CASTENADA CONSTRUCTION COMPANY, INC., 06-R4D3-3785
23. CHANNEL ISLAND VEGETABLE FARMS, INC., 06-R3D2-2234
24. CLASSIC PLATING, INC., 03-R6D2-5158 THROUGH 5168
25. COLICH & SONS, L.P., 04-R4D3-3856
26. CONNOLLY-PACIFIC CO., 06-R5D2-3805 AND 3806
27. CONOCO PHILLIPS, 06-R3D7-1857
28. CORRIDOR RECYCLING, 06-R3D5-2291 AND 2292
29. COUNTRY BEAR ELECTRIC, INC., 05-R2D1-2781
30. D & R HARVESTING, 05-R3D2-2933
31. DSS RESOURCES, 05-R3D3-2327
32. DAYS INN, 05-R2D3-4082 THROUGH 4084
33. DELANO RANCH MARKET, 06-R2D5-2744
34. DEL REY LATHING INC., 03-R3D1-1426 THROUGH 1428
35. DEMES GOURMET dba MASTERLINK SAUSAGE COMPANY, 06-R6D2-3846 THROUGH 3848
36. DEVA PRODUCTIONS, INC., 06-R4D2-3581 THROUGH 3583
37. DIRK KISIEL CONSTRUCTION INC., 04-R4D3-1899 AND 1900
38. DYNA FLEX PRODUCTS, 04-R4D2-3850 THROUGH 3852
39. DYNAMIC MACHINE, INC., 06-R4D2-3934

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40. EE ENTERPRISES, 04-R6D2-4761 AND 4762
41. ECONOMIC OPPORTUNITY COUNCIL OF SAN FRANCISCO – BUSY BEE CHILD CARE CENTER, 04-R1D1-4641
42. EEL RIVER DISPOSAL & RESOURCE RECOVERY, INC., 06-R2D3-4226
43. ELCO INC., 06-R4D3-3457
44. EL DORADO HILLS WATER TREATMENT PLANT, 06-R2D7-5061 THROUGH 5065
45. ETECO, INC., 06-R3D1-3134 THROUGH 3136
46. EXHAUST CENTER, INC., 05-R3D3-1945 THROUGH 1948
47. EXPRESSION MODE, 06-R4D1-2317 AND 2318
48. FEATHER RIVER RECREATION & PARK DISTRICT, 06-R2D3-2577
49. FIBRWRAP CONSTRUCTION, INC., dba FIBER WRAP, 04-R2D1-4026 THROUGH 4028
50. FOREBAY WATER TREATMENT PLANT, 06-R2D7-5058 THROUGH 5060
51. FRAMECON INC., 04-R2D1-3825
52. G AND H FASHION INC., 05-R4D1-4287 THROUGH 4289
53. GBC CONCRETE & MASONRY, 04-R3D3-273
54. GERAWAN FARMING, 06-R2D5-4408
55. GOLD WING ENGINEERING, INC., 04-R1D4-3500 AND 3501
56. GONZALES CONSTRUCTION, 04-R4D2-287 AND 288
57. HCI, INC., 05-R3D3-909 THROUGH 910
58. HANSON AGGREGATES, 06-R5D1-2911
59. HARVEY ENTERPRISES, INC., 06-R2D5-4737 AND 4738
60. HARWOOD PRODUCTS, INC., 04-R1D5-78

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61. HEIDI A. HAROLD, M.D. & JILL VAN HORN DO, 06-R2D3-2715
62. HIGGINS BRICK COMPANY, 06-R3D3-2602 THROUGH 2606
63. HI-TECH RUBBER, INC., 06-R3D1-3028
64. HONEYVILLE FOODS PRODUCTS, 06-R3D3-3428 AND 3429
65. HOOVER RANCH, 06-R3D3-3433 THROUGH 3435
66. INLAND LOGISTICS, LLC, dba INLAND COLD STORAGE, 06-R3D3-4968
67. J.B. PLUMBING, INC., 06-R4D1-3447 AND 3448
68. JC PALLET COMPANY, 06-R6D2-3492 THROUGH 3495
69. J & J ROOFING, 04-R4D3-248 AND 249
70. J.M.S. COMPANY, 06-R4D3-3790
71. JELD WEN WINDOWS, 05-R3D2-212 AND 213
72. JESUS L. QUINTERO, INC., 06-R1D2-3855
73. JOHANNESSEN TRADING COMPANY, 06-R4D2-2342
74. KBI, A BMC FRAMING COMPANY, 05-R3D3-903
75. KBI, A BMC FRAMING COMPANY, 05-R3D3-904 AND 905
76. KJM ENTERPRISES, 06-R6D2-2399 AND 2400
77. KEMP BROS. CONSTRUCTION, INC., 06-R4D2-1121
78. KIMSTAFF HR, INC., 06-R3D5-2282 THROUGH 2284
79. KIM WONG PLUMBING, INC., 05-R4D2-375
80. LAUSD SAN PEDRO HIGH SCHOOL, 06-R3D5-4431
81. LABOR READY, 05-R4D2-2349
82. LABOR READY SOUTHWEST, INC., 06-R1D4-3700
83. LAMSON & SESSIONS, 04-R2D1-4516

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84. JOSUE LANDA, 04-R1D4-3553 THROUGH 3560
85. LEONARD ROOFING, INC., 06-R3D3-2269
86. LEONARD ROOFING, INC., 06-R3D3-2271
87. LONG BEACH UNIFIED SCHOOL DISTRICT, 05-R3D5-727
88. M B BUILDERS, 04-R3D3-3754 AND 3755
89. MARTIN KNIGHT CONSTRUCTION, 06-R4D3-3791
90. MATRIX SERVICE INC., 05-R2D7-712
91. MELCO STEEL, 06-R6D2-4483 THROUGH 4490
92. MERCURY BROACH CO., INC., 06-R4D4-4545 AND 4546
93. MILLARD REFIGERATED SERVICES, 06-R3D3-2261 AND 2262
94. MILODON, INC., 06-R6D2-3619 THROUGH 3625
95. BOB MORGAN dba NORTH STATE BANDAG, 05-R2D1-2741 AND 2742
96. NABORS DRILLING USA LP, 04-R4D3-110
97. NAKED JUICE, 06-R4D4-4547 AND 4548
98. NATIONAL CONTAINER GROUP, 05-R3D3-1332 THROUGH 1336
99. NATIONAL CONTAINER GROUP, 05-R3D3-1697 THROUGH 1701
100. NORCAL FOREST RESOURCES, 05-R2D3-622
101. NOR-CAL PLASTERING, 06-R2D5-3735 THROUGH 3737
102. OLYMPIA GLASS & METAL, INC., 06-R4D2-3454
103. ORANGE COUNTY CONTAINER CORPORATION, 06-R4D4-3949 AND 3950
104. OREQ CORPORATION, 06-R3D3-3427
105. PACIFIC CHEESE CO., INC., 05-R1D4-1066 AND 1067
106. PACIFIC COAST ROOFING, 04-R4D3-2780

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- 107. PACIFIC PRODUCTION PLUMBING, 05-R3D2-520
- 108. PASHA STEVEDORING & TERMINALS L.P., 06-R6D2-725
- 109. PATTERSON, INC., dba M. PATTERSON, INC., 04-R1D5-4356
- 110. PAVILION CAR CARE CENTER, INC., 06-R2D1-4213
- 111. PAVILIONS, 06-R4D3-4163
- 112. PEMER PACKING, 04-R6D2-3450
- 113. PETERSENDEAN COMMERCIAL, INC., 05-R1D4-3841 AND 3842
- 114. PRIME SPORTS, 05-R3D2-2930
- 115. PROLINE BUILDERS, INC., 05-R1D5-611 AND 612
- 116. QUALITY STRUCTURES, INC., 04-R4D4-2434
- 117. RC FOSTER CORPORATION, 06-R4D4-3256
- 118. RC WENDT PAINTING CONTRACTORS, 06-R3D3-3418 THROUGH 3420
- 119. R & S ERECTION OF SOUTHERN ALAMEDA COUNTY INC., 06-R1D4-5030
- 120. RESTORATION HARDWARE, 06-R4D3-3460 AND 3461
- 121. RICON CORP., 06-R4D3-5203 AND 5204
- 122. LARRY ROCHA, INDIVIDUAL dba ALL PHASE FRAMING, 06-R2D3-2575
AND 2576
- 123. ROYAL OAK INTERMEDIATE SCHOOL, 04-R4D4-4590
- 124. RUSH PERSONNEL SERVICES, 06-R2D3-2728
- 125. SGN CONSTRUCTION INC., 05-R2D1-189 THROUGH 191
- 126. S & H CABINETS & MFG. INC., 04-R4R3-4499
- 127. SAN BERNARDINO PUBLIC SERVICES-FLEET, 06-R3D3-4773 THROUGH
4775
- 128. SANGER BOATS, INC., 06-R2D5-2743

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129. SANGER UNIQUE HOMES, INC., 06-R2D5-4730 AND 4731
130. SEAGULL SANITATION SYSTEMS dba CONSOLIDATED DISPOSAL, 06-R3D5-3436 THROUGH 3437
131. SELECTBUILD INTEGRATED CONSTRUCTION SERVICES, 06-R2D1-4212
132. SERIGRAPH RESORT WEAR, INC., 06-R6D2-4491 AND 4492
133. SETZER FOREST PRODUCTS, 04-R2D3-1603
134. 79 SOUTH MOTORSPORTS, 05-R3D3-2238
135. SHASTA CONSTRUCTORS, INC., 04-R1D2-854
136. SLATER WATERPROOFING INC., 05-R4D1-2703 AND 2704
137. SOUTHCOAST FRAMERS, INC., 06-R3D3-4423 AND 4424
138. STUCCO CONTRACTORS, INC., 04-R4D3-3858
139. STUDIO 60, WBTV, 06-R4D1-2829
140. SUPERIOR PLEATING & STITCHING CO., INC., 06-R4D2-592 THROUGH 594
141. SUPEROR TANK CO INC, 06-R6D2-4891 AND 4893
142. SYAR INDUSTRIES, INC., 05-R5D1-1722
143. TEC COLOR CRAFT, 06-R6D2-3978 THROUGH 3987
144. TABI, INC., 06-R4D1-2319 AND 2320
145. TAPIA'S FARM LABOR SERVICE, 06-R2D4-4227
146. TEST LABORATORIES INC. dba BREWSTER FOODS, 04-R4D3-245 THROUGH 247
147. THE BOEING COMPANY, 05-R3D5-1346
148. THE HENSON COMPANY, INC., 06-R1D2-3530 THROUGH 3533
149. THE OAKS TREE SERVICE, 06-R3D2-2235 THROUGH 2237
150. 3M INDUSTRIAL MINERAL, 05-R5D3-1120 THROUGH 1122

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- 151. TOM BESMER CONSTRUCTION, INC., 06-R2D5-4412
- 152. TOWER ENERGY dba TOWER MART, 05-R2D3-2916
- 153. TUTOR-SALIBA CORPORATION, 05-R1D1-1258
- 154. TWO CHEFS ON A ROLL, INC., 04-R3D5-3587
- 155. UPS SUPPLY CHAIN SOLUTIONS, 06-R3D5-4144
- 156. UNIVERSAL CONCRETE BREAKERS, INC., 03-R4D3 5227 AND 5228
- 157. U PICK U SAVE, 06-R4D1-3776
- 158. VCC VRATSINAS CONSTRUCTION COMPANY, 04-R1D4-4354 AND 4355
- 159. VILLA AMOROSA WINERY, 05-R1D5-1153
- 160. WALLDESIGN, INC., 06-R4D2-3228 THROUGH 3223
- 161. WARMINGTON HOMES CALIFORNIA, 04-R1D4-1292 THROUGH 1294
- 162. WESCO COMPUTERS CORP. dba NOTEBOOKSHOP.COM, 06-R3D5-3439
- 163. WEST BUILDERS INC., 05-R3D5-037
- 164. WHITE STEEL, INC., 04-R3D3-1147 AND 1148
- 165. WILKER MOK NURSERY, 06-R1D2-3853 AND 3854
- 166. WINDSOR MILL, 05-R1D5-1068 AND 1069
- 167. WINGFOOT COMMERCIAL TIRE SYSTEMS LLC, 05-R2D1-2628 AND 2629
- 168. YOUNG ELECTRIC SIGN COMPANY, 06-R4D1-3445 AND 3446
- 169. ZUELLIG BOTANICALS, INC. dba BI NUTRACEUTICALS, 05-R3D5-038

ORDERS DENYING LATE APPEAL:

- 1. CAPITAL WASTE, INC., 07-R2D1-9012 THROUGH 9015
- 2. LAUSD MAINTENANCE & OPERATIONS, 07-R4D1-9016 AND 9017

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ORDERS DENYING LEAVE TO REOPEN APPEAL:

1. CA CORRECTIONS – PELICAN BAY STATE PRISON, 06-R2D3-9191

ORDERS DISMISSING APPEALS:

(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)

1. CALIFORNIA SKATE FACTORY, 05-R3D3-3142 AND 3143
2. DOMINO 17521, INC., 05-R4D1-2248
3. DOWNEY AREA RECYCLING & TRANSFER, 05-R4D4-3042 THROUGH 3044
4. HAMMERMILL MANUFACTURING, INC., 04-R6D2-453 THROUGH 462
5. HERRON CONSTRUCTION, INC., 06-R3D1-743 AND 744
6. JASWANT RAI (OWNER), 07-R1D4-9022 THROUGH 9024
7. RETAIL ONE, 05-R3D5-365
8. SAN MARINO PLASTERING, 05-R2D4-2088 THROUGH 2090
9. STRAIGHT EDGE DEVELOPMENT, INC., 05-R3D1-4554 THROUGH 4556

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. AGC COMMUNICATIONS, 03-R1D4-3121
2. ASW ALLSTATE PAINTING & CONSTRUCTION, INC., 04-R2D2-4381 AND 4382
3. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
4. CENTRAL FREIGHT LINES, INC., 07-R2D1-9018 THROUGH 9021
5. HERRON CONSTRUCTION, INC., 06-R3D1-743 AND 744
6. SELECT PERSONNEL SERVICES, 05-R3D3-2753

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7. WOODLAND JOINT UNIFIED SCHOOL DISTRICT, 07-R2D1-9029

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. JACK BARCEWSKI dba SUNSHINE CONSTRUCTION, 06-R1D5-1257
2. BETTS SPRING COMPANY, 05-R6D1-407 THROUGH 421
3. CUSTOM PROFESSIONAL ROOFING, 05-R1D4-1070
4. JELD-WEN WINDOWS AND DOORS, 04-R2D1-3723
5. REDONDO BEACH UNIFIED SCHOOL DISTRICT, 05-R3D5-913 AND 914
6. SASSAN GEOSCIENCES, INC., 05-R4D4-2260 AND 2261

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. AC FRAMERS INC., 03-R2D3-3475
2. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
3. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
4. BLUE DIAMOND MATERIALS, 02-R5D2-1268
5. BRYDENCOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
6. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
7. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
8. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
9. COX COMMUNICATIONS, 03-R3D2-1942
10. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
11. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
12. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131

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13. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
14. GLASS PAK, 03-R2D2-0750 AND 0751
15. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
16. HELPMATES STAFFING SERVICES, 05-R3D3-2239
17. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
18. HUSSMAN CORPORATION, 03-R3D1-2939
19. ILH CONSTRUCTION, 02-R1D1-4172
20. IRBY CONSTRUCTION, 03-R3D3-2728
21. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
22. JOHN LAING HOMES, 04-R3D1-194 AND 195
23. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
24. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
25. KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
26. LONG BEACH CITY COLLEGE, 03-R3D5-2747
27. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
28. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
29. McDONALDS #10660, 03-R1D3-4116 & 4117
30. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
31. NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 THROUGH 202
ACTION: For Board Discussion and Action
32. O& M INDUSTRIES, 04-R1D5-1597
33. PMR RACE CARS, 03-R3D3-1825
34. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
35. RII PLASTERING INC., 02-R3D1-2679

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36. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
37. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
38. STACY & WITBECK INC., 05-R1D1-1142
39. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
40. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
41. TRIO METAL, 03-R4D4-0317
42. WESTERN DOOR, 01-R3D1-2827
43. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

PENDING LITIGATION

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. BLF FRAMING, INC., 04CS01618 (02-1837/38)
3. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)
4. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, LOCAL LODGE 1781; JULIA SMITH, (UNITED AIRLINES dba UNITED AIRLINES SFO SYC), 07CS00331 (00- 2844)
5. WESTERN MILLING, LLC, 06 CE CG 04007 (06- 9039/9040)

APPELLATE COURT:

1. C. OVERAA & CO., CO51245 (04CS00570) 01-3560

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OTHER LEGAL MATTERS

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

PERSONNEL *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.